



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO #08-08

- ☒ **Preproposal Statement of Inquiry was filed as WSR 08-15-169 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: The Department of Ecology (Ecology) proposes to adopt amendments to the Underground Storage Tank (UST) Regulations, chapter 173-360 Washington Administrative Code (WAC). These regulations are intended to prevent releases from UST systems containing petroleum and other regulated substances. Such releases pose serious threats to human health and the environment.

Hearing locations:

- | | |
|---|--|
| 1. Department of Ecology
Eastern Regional Office
4601 North Monroe Street
Spokane, WA 99205
April 24, 2012 at 1:30 pm | 3. Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
April 26, 2012 at 1:30 pm |
| 2. Department of Ecology
Central Regional Office
15 W Yakima Avenue
Yakima, WA 98902
April 25, 2012 at 1:30 pm | 4. Department of Ecology
Headquarters
300 Desmond Drive SE
Lacey, WA 98503
April 27, 2012 at 1:30 pm |

Submit written comments to:

Name: Michael Feldcamp
Address: Department of Ecology
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
e-mail: USTrule@ecy.wa.gov
fax: (360) 407-7154
by May 4, 2012

Assistance for persons with disabilities:

Contact Ann McNeely at (360) 407-7205 by April 13, 2012.
Persons with hearing loss, call 711 for Washington Relay Service.
Persons with a speech disability, call 877-833-6341.

Date of intended adoption: June 27, 2012
(Note: This is **NOT** the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rule proposal is to implement changes to the state's UST program specified by the Legislature in 2007 in Substitute Senate Bill 5475, which amended chapter 90.76 RCW. The changes are necessary to comply with the new federal requirements in the Underground Storage Tank Compliance Act of 2005 (42 U.S.C. Sec. 15801 et seq., Energy Policy Act of 2005, P.L. 109-58, Title XV, subtitle B). The changes:

1. Authorize Ecology to prohibit the delivery of regulated substances to UST systems not in compliance with regulatory requirements;
2. Establish an operator training program for individuals who operate and maintain UST systems; and
3. Require secondary containment of tanks and pipes, and containment under dispenser systems.

Previously, Ecology anticipated addressing several other issues as part of this rule proposal. However, because of an on-going federal rule-making process that aims to address many of the same issues, Ecology decided to limit the scope of this rule proposal. We are suspending rule-making on issues related to the federal rule-making and financial responsibility until after the federal rule-making process is complete.

Reasons supporting proposal: This rule proposal is necessary to:

1. Comply with the legislative directive in Substitute Senate Bill 5475 (2007) to adopt rules that are consistent with and no less stringent than the requirements in the Underground Storage Tank Compliance Act of 2005;
2. Maintain federal funding for the state UST program. Such funding is contingent on state compliance with the requirements in the Underground Storage Tank Compliance Act of 2005; and
3. Reduce the number and severity of releases from regulated UST systems in this state, which pose a serious threat to human health and the environment, including drinking water.

Statutory authority for adoption: Chapter 90.76 RCW

Statute being implemented: Chapter 90.76 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION: Underground Storage Tank Compliance Act of 2005 (42 U.S.C. Sec. 15801 et seq., Energy Policy Act of 2005, P.L. 109-58, Title XV, subtitle B)

DATE 3/20/12

NAME Polly Zehm

SIGNATURE *Polly Zehm*

TITLE Deputy Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 21, 2012

TIME: 8:39 AM

WSR 12-07-084

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Michael Feldcamp	Headquarters – Lacey, WA	(360) 407-7531
Implementation.....Mike Blum	Headquarters – Lacey, WA	(360) 407-6913
Enforcement.....Mike Blum	Headquarters – Lacey, WA	(360) 407-6913

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Ann McNeely
Address: Department of Ecology
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
phone: (360) 407-7205
fax: (360) 407-7154
e-mail: ann.mcneely@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Ann McNeely
Address: Department of Ecology
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
phone: (360) 407-7205
fax: (360) 407-7154
e-mail: ann.mcneely@ecy.wa.gov

☐ No: Please explain: